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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,739	10/13/2003	David W. Scheimann	7751	2797

49459 7590 08/15/2007

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EXAMINER	
SAYALA, CHHAYA D	

ART UNIT	PAPER NUMBER
1761	

MAIL DATE	DELIVERY MODE
08/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/683,739	**Applicant(s)** SCHEIMANN, DAVID W.
	Examiner C. SAYALA	**Art Unit** 1761

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1-17.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

C Sayala

CHHAYA D. SAYALA
PRIMARY EXAMINER

Response to Arguments

Applicant's arguments filed 2/7/2007 have been fully considered but they are not persuasive.

Even though applicant has argued that the structures of the polymers of the invention are "flexible" and that the reference polymers are "rigid" and that the claims to the invention are to "flexible" polymers, no such distinction is seen from the claim recitation. In fact, applicant admits that "While it may be true that some of the same polymer monomers or building blocks may be similar, there are significant differences in the organization of the molecules in the polymer chain. " A review of the claim vis-à-vis the reference shows that the claim does not distinguish any organization and in fact, the claims have been met by the reference to the extent described in the rejection.

Next, applicant states that "There are significant differences in the papermaking process and the grain dry milling operations both in overall scope and also from a unit operation standpoint. It would be very difficult to compare them and call them "similar processes"." This is vigorously disagreed with. First, no distinction is made in the specification, and second, whether it is papermaking or stillage solids, the polymer is added to cause flocculation in order to dewater, that is, the polymer is being relied on for its properties to agglomerate and flocculate the solids, and since the monomers claimed are the same reference and the reference shows that such coagulation and flocculation was achieved, then it can be reasonably expected to do the same when it is added to stillage solids.

Finally, applicant states that "In the papermaking process cellulosic fibers and other materials are added to the process stream and it's an overall goal to trap them and recover them in the sheet of paper that is being formed in the process.

In the corn dry grind process discussed in this patent application is not a cellulosic process."

This is also disagreed with. US Patent 5958233 to Willgohs, already made of record by the examiner in the last Office action , states "Stillage in general has a complex composition; this is true especially for corn stillage, which includes the non-fermented fibers from the hull and tipcap of the corn kernel, as well as, particles of the corn germ with high oil content, oil and other lipids, the non-fermented portions of the corn kernel such as gluten, any residual unreacted starch, solubles such as proteins and enzymes, and the byproducts and residue of fermentation including dead yeast cells."

Therefore, dewatering stillage solids is a cellulosic process since it contains non-fermented fibers.

Furthermore, the specification has been thoroughly reviewed and if indeed, applicant is claiming "flexible" polymers versus "rigid" polymers of prior art, then there is no recitation of such a limitation in the claims, and certainly no assertion of any unobvious result in this regard in the specification, either. Therefore, applicant's statement that "Testing conducted with early versions of the structurally rigid polymers showed that they did not provide the performance benefit of the more flexible types of polymer chemistries identified in this patent application. " does not aid in distinguishing the claims over art applied. In fact, the specification makes no mention of any type of polymer, flexible or otherwise, or any testing. The claims recite "one or more anionic monomers selected from acrylic acid sodium salt, 2-acrylamido-2-methyl-1-propanesulfonic acid sodium salt and methacrylic acid sodium salt and optionally one or more acrylamide monomers" and the reference teaches just that to coagulate and flocculate solids in a dewatering process.

The rejection will be maintained. Applicant is also urged to review the references made of record in the last Office action, that are found to be pertinent to the claimed subject matter.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Sayala whose telephone number is (571) 272-1405. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

C. SAYALA
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Group 1700.